



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

*dated 11/29/01*

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Mr. Robert Vincze, Esq.  
Hall and Evans  
1200 17<sup>th</sup> Street, Suite 1700  
Denver, Colorado 80202

Dear Mr. Vincze,

Thank you for your email of March 23, 2001 to Elizabeth Cotsworth requesting clarification on whether the Battery Recyclers DC Circuit decision affects the Bevill 50 percent rule.

The DC Circuit decision in Battery Recyclers Inc v EPA dealt with whether RCRA has jurisdiction over wastes destined for recycling. This decision did not therefore affect in any way the Bevill 50 percent rule. A facility may maintain its Bevill status as a mineral processing facility as long as it does not process more than 50 percent non-ores or minerals (scrap, chemical manufacturing wastes, etc.). If the 50 percent rule is adhered to, wastes from a mineral processing facility remain classified as mineral processing wastes. It may be prudent for a company to seek a separate opinion from the authorized state or from the EPA regional office to assure that the co-processing of virgin feed with other waste streams meet the RCRA definition of legitimacy and non-speculative accumulation.

I have attached additional information on the definition of mineral processing and the applicability of the 50% rule to further assist you regarding this matter. If you have any questions about this opinion, please contact Stephen Hoffman on my staff at 703-308-8214.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Kinch".

Richard Kinch  
Acting Associate Director  
Municipal and Industrial Waste Division

Attachment